

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Bresnan Communications, LLC)	NAL/Acct. No. 200732080022
)	File No. EB-06-IH-0003
Operator of Cable Television Systems)	FRN No. 0007001977
)	

ORDER

Adopted: March 12, 2007

Released: March 13, 2007

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Bresnan Communications, LLC (“Bresnan”). The Consent Decree terminates an investigation by the Bureau concerning possible violations of the requirements of the cable public file rule.¹

2. The Bureau and Bresnan have negotiated the terms of the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based upon the record before us, and in the absence of material new evidence relating to this matter, we conclude that there are no substantial and material questions of fact as to whether Bresnan possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the investigation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,² and the authority delegated by Sections 0.111 and 0.311 of the Commission’s rules,³ the attached Consent Decree **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the complaint received by, or in the possession of, the Bureau on or around December 22, 2005, alleging violations of the cable public file rule by Bresnan, **IS DISMISSED**.

¹ See 47 C.F.R. § 76.1700 *et seq.*

² See 47 U.S.C. § 154(i).

³ See 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

8. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by regular first class mail and by certified mail, return receipt requested, to Bresnan Communications, LLC, One Manhattanville Road, Purchase, New York 10577-2596 and to its counsel, Steven J. Horvitz, Esquire, Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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CONSENT DECREE

Adopted: March 12, 2007

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By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. The Enforcement Bureau of the Federal Communications Commission and Bresnan Communications, LLC, by their authorized representatives, hereby enter into this Consent Decree.

II. DEFINITIONS

2. For purposes of this Consent Decree, the following conditions shall apply:
- a. "Bresnan" means Bresnan Communications, LLC;
 - b. "Non-Related Company" means a company or organization in which neither Bresnan nor its principals, individually or collectively, are an officer, director, partner, member, manager, or holder (directly or indirectly) of an ownership interest;
 - c. "Commission" and "FCC" mean the Federal Communications Commission, and all of its bureaus and offices;
 - d. "Bureau" means the Enforcement Bureau of the Federal Communications Commission;
 - e. "Parties" mean the Bureau and Bresnan;
 - f. "Complainant" means the Communications Workers of America;
 - g. "Complaint" means the complaint received by, or in the possession of the Bureau on or around December 22, 2005, alleging violations of the Cable Public File Rule by Bresnan.

- h. “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*;
- i. “Rules” mean the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations;
- j. “Cable Public File Rule” means the provisions of 47 C.F.R. § 76.1700 *et seq.*;
- k. “public file,” “public inspection file” or “public inspection files” mean the records to be maintained by cable operators pursuant to the Cable Public File Rule;
- l. “Adopting Order” means an order of the Bureau adopting this Consent Decree;
- m. “Effective Date” means the date on which the Adopting Order is released;
- n. “Investigation” means the investigation conducted by the Bureau regarding Bresnan’s compliance with the Cable Public File Rule after receiving the Complaint from the Complainant.

III. BACKGROUND

3. On or about December 22, 2005, the Complainant filed the Complaint with the Commission. The Complaint stated that the Complainant is a labor organization that represents about sixty Bresnan employees in Colorado and Wyoming and that its members are also consumers of cable services. The Complaint alleged that, on November 15 and 16, 2005, the Complainant’s representatives visited 15 separate Bresnan offices, requested the public files, and allegedly found numerous violations of the Cable Public File Rule.

4. On January 27, 2006, the Bureau directed Bresnan to address the allegations contained in the Complaint. Bresnan filed an Opposition to the Complaint on February 16, 2006, to which the Complainant filed a reply on February 28, 2006. On March 10, 2006, Bresnan submitted a Surreply to the Reply filed by the Complainant.

5. In its responses to the Complaint and the Bureau’s inquiry, Bresnan maintained that, in many situations cited in the Complaint, Bresnan’s public files contained records that the Complainant alleged to be missing or incomplete.

6. Bresnan and the Bureau acknowledge that any proceeding that might result from the Investigation will require the significant expenditure of public and private resources. In order to conserve such resources and to promote compliance by Bresnan with the Cable Public File Rule, the Parties hereby enter into this Consent Decree in consideration of the mutual commitments made herein.

IV. AGREEMENT

7. Bresnan agrees that the Bureau, by delegated authority of the Commission, has jurisdiction over the matters contained in the Consent Decree and the authority to enter into and adopt the Consent Decree.

8. Bresnan agrees to be legally bound by the terms and conditions of this Consent Decree. Bresnan represents and warrants that its signatory is duly authorized to enter into this Consent Decree on its behalf.

9. The Parties agree that this Consent Decree will become effective on the Effective Date. Upon the Effective Date, the Adopting Order and this Consent Decree will have the same force and effect as any other order of the Bureau and any violation of the terms of this Consent Decree will constitute a separate violation of a Bureau order, entitling the Bureau to subject Bresnan to enforcement action for such violation.

10. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau, through entry of the Order, which shall immediately resolve and terminate the Investigation and dismiss the Complaint

11. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or other determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and orders. The Parties agree that this Consent Decree is for settlement purposes only and that, by agreeing to this Consent Decree, Bresnan does not admit or deny liability for violating any statute, regulation, or administrative rule in connection with matters that are the subject of this Consent Decree.

12. Bresnan agrees that it will make a voluntary contribution to the United States Treasury in the amount of Twenty-five Thousand Dollars (\$25,000) within ten (10) calendar days of the Effective Date. Such payment must be made without further protest or recourse, by check or similar instrument, payable to the order of the Federal Communications Commission. Such payment must include the NAL/Acct. No. and FRN No. referenced in the Adopting Order. Such payment by check or money order may be mailed to the Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Such payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room Number 1540670, Pittsburgh, PA 15251. Such payment by wire transfer may be made to ABA Routing Number 043000261, receiving bank Mellon Bank, and account number 9116229.

13. As a further condition to this agreement, Bresnan will institute and follow the terms of a Compliance Plan within thirty (30) days of the Effective Date and keep such Compliance Plan in effect, where applicable, for two (2) years after the Effective Date. The Compliance Plan will include, at a minimum, the following components:

- a. Bresnan will designate, and maintain a list of, individuals ("Public Inspection File ("PIF") Administrators") responsible for maintaining the public inspection file at each cable system required to maintain such a file under the Cable Public File Rule.
- b. Bresnan will conduct an annual training session of all PIF Administrators. The training will include descriptions of specific information that must be included in the public inspection file under the Cable Public File Rule. The information provided shall include, among other things, the obligations set forth in the Cable Public File Rule regarding political advertising, Equal Employment Opportunity, children's programming, proof of performance and signal leakage. In addition, PIF Administrators will be provided with contact information for assistance in the event that a question arises regarding compliance obligations under the Cable Public File Rule. For calendar year 2007, the training held in January and February 2007 shall satisfy this obligation. New PIF Administrators will undergo

such training within thirty (30) days of their commencement of work at the position.

- c. Bresnan will require all PIF Administrators to review the local public inspection files and report on an annual basis that such files are maintained consistent with the Cable Public File Rule. In addition, Bresnan will audit on an annual basis the public inspection files of at least ten percent of its cable systems required to maintain public inspection files under the Cable Public File Rule.

14. In consideration of the terms and conditions set forth herein, the Bureau agrees to terminate its Investigation and dismiss the Complaint. The Bureau agrees that it will not use the facts developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Bresnan concerning the matters that were the subject of the Investigation. The Commission also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Bresnan with respect to basic qualifications, including its character qualifications, to be a Commission licensee.

15. Bresnan agrees that any violation of this Consent Decree, including but not limited to a failure to make any of the payments required by Paragraph 12 hereof, will constitute a separate violation of a Commission order and subject each to appropriate administrative sanctions.

16. This Consent Decree will be binding on Bresnan's transferees, successors and assigns, provided that in the event of an assignment or transfer to a Non-Related Company, only the obligations of Paragraph 12 will be binding on the assignee or transferee.

17. Bresnan waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided that the Commission issues an Order adopting the Consent Decree without change, addition, modification or deletion. Bresnan shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

18. Bresnan's decision to enter into this Consent Decree is expressly contingent upon the Commission's issuance of an Order that is consistent with the Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

19. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

20. Bresnan and the Bureau each agrees that if Bresnan, the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Adopting Order, neither Bresnan nor the Commission shall contest the validity of the Consent Decree or Order, and Bresnan shall waive any statutory right to a trial *de novo*.

21. The Parties also agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended

to revise the terms of this Consent Decree to which Bresnan does not expressly consent) that provision will be superseded by such Commission rule or order.

22. Bresnan hereby agrees to waive any claims that it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

23. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**FEDERAL COMMUNICATIONS COMMISSION
COMMUNICATIONS, LLC**

BRESNAN

By: Kris Anne Monteith
President
Chief, Enforcement Bureau
Manager

By: Robert V. Bresnan, Senior Vice

and General Counsel of Its

Date: _____

Date: _____